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Summary record of the 22nd meeting
Held at Headquarters, New York, on Friday, 22 October 2004, at 10 a.m.

Chairman: Mr. Kuchinsky ..... (Ukraine)

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Agenda item 102: Programme of activities for the International Decade of the World's Indigenous People, 1995-2004 (*continued*)

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04-56665 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 102: Programme of activities for the International Decade of the World's Indigenous People, 1995-2004 (*continued*) (A/59/257, 258 and 277; A/C.3/59/L.13)

1. **Ms. Futschek** (New Zealand) said that in a world in which too many indigenous peoples continued to suffer discrimination New Zealand was frustrated by the slow pace of the negotiations on the draft declaration on the rights of indigenous peoples and by the failure of some States and some indigenous groups to recognize that the draft text would require amendments; no amendments would mean no declaration. In September, New Zealand and six other countries had submitted an amended draft text which sought to ensure that the declaration was consistent with international human rights law and humanitarian law, to protect individual, collective and third-party rights, and to address the need to safeguard the territorial integrity and political unity of States. The response to that initiative had been pleasing, and at its most recent meeting the Working Group on Indigenous Populations had seen the prospect of agreement on over half the draft articles. It was important to build on that momentum.

2. New Zealand did not believe that declaring decades was a substitute for action. If there was to be another indigenous decade, it would have to be shaped around the work of the Permanent Forum on Indigenous Issues and focus on practical results. The lead role in moving the indigenous agenda forward lay in fact with the Permanent Forum; with its dynamic approach it had overtaken the ineffectual Working Group.

3. **Mr. Vegas** (Peru) said that the Peruvian Government had made solid progress in promoting the rights of indigenous peoples, a process intrinsically linked with the delivery of sustainable development, democracy and human rights.

4. Ten years after the beginning of the International Decade of the World's Indigenous People, some progress had been made in solving the problems but much remained to be done. The cultural wealth of indigenous peoples was inversely proportional to their income levels and they were more seriously affected by poverty and inequalities. During the violence in Peru between 1980 and 2000, 75 per cent of the victims had had a native language as their mother tongue, but indigenous peoples made up only 16 per cent of the total population. In that context, the Government was committed to giving priority to the full participation of indigenous peoples and ethnic minorities.

5. It was regrettable that the negotiations on the draft declaration had not borne the expected fruit. The peculiarities of the Working Group and the intransigent positions adopted in it had caused the negotiations to stagnate. But more recently the Working Group had achieved an unprecedented degree of agreement and might produce a definitive text in the foreseeable future.

6. His delegation was in favour of declaring a second decade for indigenous peoples in order to consolidate the achievements of the first and to seek further improvements for all indigenous peoples. It also drew attention to the Andean Charter for the Promotion and Protection of Human Rights, in which the Presidents of the Andean countries recognized that their indigenous peoples and their communities of African descent were entitled to develop their identities and customs in the cultural, spiritual, political, economic and legal spheres.

7. His delegation had read with particular interest the first report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/59/258), which only confirmed the sufferings of persons of indigenous origin and the need for the international community to find concrete solutions.

8. **Mr. Abel** (Myanmar) noted that not withstanding the International Decade the Special Rapporteur had concluded that the achievements to date were modest in comparison with the original high expectations. The recommendation by the Economic and Social Council for the proclamation of a second decade therefore merited serious consideration.

9. Myanmar was home to some 135 ethnic groups, called "national races", which had always co-existed through good times and bad. His delegation agreed with the Special Rapporteur that the traditional emphasis on economic growth was unproductive when the social and cultural spheres were excluded. The Government had established 12 economic, social and political objectives for the national races with a view to achieving their well-rounded development. A separate ministry for the development of border areas and

national races had been set up in 1992 to cater specifically for the needs of citizens residing in remote border areas, giving particular attention to infrastructure development. As a result, there had been a significant improvement in the quality of life of once impoverished areas.

10. The rights of the national races could be fully realized only through their representation in political processes. The Government therefore attached priority to their participation in the National Convention, which was establishing the principles for a new democratic constitution. Sixty per cent of the delegates to the National Convention were from national races. It had discussed such vital issues as power sharing, and once a democratic constitution had been adopted the national races would be able to elect leaders of their choice.

11. **Mr. Cumberbatch Miguén** (Cuba) said that near the end of the first International Decade there was every indication of the need to continue the work and to make a renewed effort to secure full recognition of all the human rights of indigenous peoples. Major progress had been made, notably with the establishment of the Permanent Forum, not to mention the contributions of the Working Group and the Special Rapporteur. But much remained to be done. The consequences of the colonization begun more than 500 years earlier were still on the national and international agendas; the latest development was the way in which the world's riches were distributed under neo-liberal globalization. That conclusion had been emphasized in paragraph 100 of the Working Group's report on its twenty-first session (E/CN.4/Sub. 2/2003/22).

12. It was clear that the mandates of the three mechanisms dealing with indigenous issues were quite different but complementary. The reciprocal presentation of their annual reports by the Chairmen of the Permanent Forum and the Working Group had enabled the two bodies to avoid duplication and to work more effectively. The practice should be made mandatory. In addition, collaboration with the Working Group gave the Special Rapporteur access to valuable information both from indigenous groups and from Governments. One of the most visible results of the collaboration between the Permanent Forum and the Working Group was their joint effort to coordinate initiatives.

13. Those two bodies had also called for the proclamation of a second international decade. His delegation was promoting the adoption of a draft resolution to that end, which would also refer to a programme of action based on an evaluation of the results of the first Decade. That evaluation would certainly point to the proven success of some of the activities and to the obvious failings. The point of reference should of course be the opinions of the indigenous peoples themselves.

14. His delegation was concerned about the situation in the Working Group with regard to the draft declaration on the rights of indigenous peoples. It was to be hoped that the Working Group would conclude its deliberations shortly, so that the draft declaration could be added to the Decade's achievements.

15. **Ms. Ström** (Sweden), speaking on behalf of the Nordic countries, said that, as the International Decade of the World's Indigenous People came to a close, it was time to consider ways to maintain the focus on its overall objective, which was to improve the lives of the world's indigenous peoples through cooperation in such areas as human rights, culture, the environment, development, education and health. The activities of the Decade had clearly placed the situation of indigenous peoples on the international agenda, and had raised awareness about the ways in which indigenous peoples contributed to the common assessment of challenges affecting humanity as a whole, for example, its relationship with the environment. Those activities had also served to bring together indigenous peoples from different regions of the world.

16. The Permanent Forum on Indigenous Issues remained the main achievement of the Decade. Since its establishment, it had addressed such important issues as the situation of indigenous children and youth and that of indigenous women. It had also focused on developing its working methods and strengthening its cooperation with the United Nations system.

17. Another central goal of the Decade, the drafting of a declaration on the rights of indigenous people, might soon be within reach. Important progress had been made at the recent meeting of the Working Group in Geneva, and the momentum of those negotiations should continue through the session to be held in December. She stressed the importance of the work of the Special Rapporteur on the situation of human rights

and fundamental freedoms of indigenous people, and noted that the close cooperation and dialogue between the Special Rapporteur and the Permanent Forum was pivotal.

18. **Mr. Zheglov** (Russian Federation) said that the establishment of the Permanent Forum had completed the system of United Nations bodies dealing with indigenous issues at the international level. It was important for representatives of indigenous peoples to be involved in the work of those bodies, for they could make a substantial contribution to the drafting of the declaration and to the work of the Permanent Forum and the Working Group. The support of the United Nations Voluntary Fund for Indigenous Populations was enabling increasing numbers of indigenous people to do precisely that. One of the new approaches to emerging problems was based on the principle of free, prior and informed agreement devised by the Working Group; that principle would become the foundation of cooperation between Governments and indigenous peoples.

19. It was obvious that the problems of indigenous peoples could not be solved exclusively at the international level. The matter was a priority for Russia, whose indigenous minorities enjoyed all rights and opportunities on an equal footing with the rest of the population. The governmental authorities had been giving increased attention to consolidating the legislative basis of the relations between the State and indigenous peoples, the protection of whose rights was guaranteed by a broad array of federal laws. One of the economic priorities was to move from direct budgetary support of indigenous regions to the creation of favourable conditions for their sustained self-development.

20. Practical improvements were also being made: for example, the building of infrastructure under the State programme for the development of the economy and cultures of the minority peoples of the North and other economic and social development programmes for the same peoples. The State programme, "Children of the North", occupied a special place among such measures, including as it did the development of the latest technologies for the medical treatment of children in the specific natural and climatic conditions of the North. In addition, the education of indigenous children was an integral part of the whole education system and was based on the principle of the right to education in one's mother tongue.

21. His delegation wished to draw particular attention to the measures of support for the Finno-Ugrian peoples: a decision had been taken to establish a compendium of their cultural heritage; publications were issued in their languages; and greater use was being made of those languages in the mass media. Social assistance was also being furnished on the ground. The Republic of Karelia had adopted a law on state support for the Karelian, Vep and Finnish languages. The Khanty-Mansi Autonomous Area had more than 40 laws concerning indigenous peoples, and the Ugrian State University had been established there in 2001. Many of Russia's other regions had special programmes for the promotion of the languages and cultures of the Finno-Ugrian peoples.

22. Although the problems of the world's indigenous peoples were far from being solved, the International Decade had given a powerful boost to the protection of their interests and rights. But a number of the Decade's goals had not been attained, and the Russian Federation was therefore in favour of a second decade.

23. **Ms. Fonseca** (Venezuela) said that the rights of indigenous peoples were guaranteed in the Constitution in such areas as their social, political and economic organization and their language, culture, beliefs and traditions. Furthermore, the State acknowledged the duty to promote access to land ownership, whether individually or collectively, for indigenous groups. As part of its effort to meet the Millennium Development Goals, the Government had also developed plans and policies to assist the most disadvantaged groups in society, including many indigenous communities.

24. Through the Permanent Forum on Indigenous Issues, indigenous communities themselves could make recommendations on matters affecting their economic, social and cultural development. Her delegation believed that it was important to continue and strengthen international cooperation on indigenous issues by negotiating a declaration on the rights of indigenous people. Venezuela had participated in the ongoing negotiations, and was also studying a draft declaration in that area by the Organization of American States.

25. The many valuable contributions of indigenous groups to society could not be ignored. Venezuela had begun a process of constructing a new multi-ethnic democracy and a society based on intercultural values. Its indigenous communities had made major progress

in achieving recognition of their individual and collective rights, but much remained to be done to recognize their true contribution to human history.

26. **Mr. Porter** (European Commission) said that the end of the International Decade of the World's Indigenous People provided an opportunity to take stock of the progress achieved and to reflect on the way forward. Members of the European Union had made a commitment to integrate the concern for indigenous peoples as a cross-cutting aspect at all levels of development cooperation, which had translated into an effort to mainstream indigenous peoples' issues into the European Commission's own practices and working methods by inviting them to participate in the programming, design, implementation and evaluation of development projects. Another result of the increased awareness of their concerns had been to identify the fight against discrimination and the promotion of their rights as priorities within the European Initiative for Democracy and Human Rights.

27. The Commission was launching a call for proposals to support the participation of indigenous peoples in international and regional organizations and to support activities aimed at the ratification and implementation of International Labour Organization (ILO) Convention No. 169. Preference would be given to proposals presented by indigenous organizations.

28. The Commission shared the satisfaction expressed at the establishment of the Permanent Forum on Indigenous Issues and the appointment of the Special Rapporteur on the human rights of indigenous people. It welcomed the open dialogue taking place within the working group on the draft declaration. The European Commission was committed to the promotion and protection of the rights of the world's indigenous peoples and would build on the positive momentum created by the Decade.

29. **Mr. Rao** (World Intellectual Property Organization (WIPO)) said that WIPO had been involved for some time in issues relating to the protection and promotion of intellectual property of concern to indigenous communities. The WIPO General Assembly had established the Intergovernmental Committee on Traditional Knowledge, Genetic Resources and Expressions of Folklore in 2000 to address those issues.

30. The mandate of the Intergovernmental Committee was to discuss intellectual property issues arising from access to genetic resources and benefit sharing, protection of traditional knowledge and traditional cultural expressions or expressions of folklore, with special focus on the international dimensions of those questions.

31. The intellectual property aspects of traditional knowledge could be broken down into two key themes, defensive protection and positive protection. Defensive protection aimed at ensuring the other parties did not obtain intellectual property rights over pre-existing traditional knowledge, for example, traditional-knowledge databases that could be used as evidence of prior art to challenge a claim to a patent based on such knowledge. Positive protection focused on the use of intellectual property rights over protected material either to exclude others' use of the material or to use it oneself. Despite the conceptual differentiation made between the two types of protection, they were not mutually exclusive.

32. Another specific issue raised was whether the existing intellectual property regime provided an adequate framework for protection, or if there was a need for a *sui generis* system which would take into account the fact that traditional knowledge was not individually owned and time-bound, because such knowledge was owned and shared by the community and passed from generation to generation. Other matters under debate were who should be protected, what should be protected and how, along with the issue of public domain.

33. WIPO adopted an approach to its work that was both empirical, based on fact-finding missions and surveys, and practical, aimed at capacity-building and providing assistance and cooperation with a range of national, regional and international initiatives. Ultimately, WIPO hoped that its members would agree to an instrument or instruments that safeguarded the protection of the traditional knowledge and cultural expressions of indigenous people.

34. **Mr. Nepal** (Nepal) said that, in view of important institutional developments like the establishment of the Permanent Forum on Indigenous Issues, the progress made in the Working Group on the draft declaration and the appointment of the Special Rapporteur, his delegation supported the proclamation of the second International Decade of the World's Indigenous People.

35. Nepalese society was composed of different ethnic groups, languages, religions, cultures and traditions, and the development of all groups was the foundation for peace, prosperity and harmony. Nepal had undertaken legal, administrative and institutional measures to safeguard the interests of various ethnic and indigenous groups. The Constitution of 1990 guaranteed human rights and fundamental freedoms and prohibited discrimination based on religion, race, sex, caste or ideology. Each community had the right to its language, culture and traditional religion. Election of representatives under the constitutional monarchy and the multiparty system of democracy had allowed all groups to have greater participation in decision-making. The National Foundation for the Development of Indigenous Nationalities and the National Dalit Commission had been established for the purpose of mainstreaming the concerns of those and other vulnerable groups. However, financial and technical resources were scarce, and he appealed for international assistance to complement national development efforts.

The meeting rose at 11.30 a.m.

United Nations A/C.3/59/SR.23

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Third Committee

Summary record of the 23rd meeting
Held at Headquarters, New York, on Monday, 25 October 2004, at 10 a.m.

Chairman: Mr. Kuchinsky ..... (Ukraine)

Contents

Agenda item 105: Human rights questions

(a) Implementation of human rights instruments

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04-56912 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 105: Human rights questions (A/59/225, A/59/371, A/59/425)

(a) Implementation of human rights instruments (A/59/40 (vol. I and II), A/59/44, A/59/48, A/59/96, A/59/254, A/59/306, A/59/308, A/59/309, A/59/310, A/59/324 and A/59/353)

1. **Mr. Ndiaye** (Director of the New York Office of the United Nations High Commissioner for Human Rights) said that the annual report of the Human Rights Committee (A/59/40) contained the reports of the Committee on the three sessions it had held between August 2003 and July 2004, and reviewed the reports submitted by 13 States parties, as well as the situation of two countries that had not prepared reports, following the new procedure adopted in 2001. The Committee had adopted its General Comment No. 31 on article 2 of the Covenant, on the nature of the general legal obligation imposed on States parties. In order to address its caseload under the first Optional Protocol to the International Covenant on Civil and Political Rights, the plenary Working Group on Communications had met for a week, in July 2004. Chapters VI and VII of the report covered measures taken to ensure follow-up to the Optional Protocol and the concluding observations. The Secretary-General's report on the effective implementation of international instruments on human rights, including reporting obligations under those instruments (A/59/308), referred to the reports which had been submitted by the human rights treaty bodies or which provided information on the status of the instruments.

2. The report of the chairpersons of the human rights treaty bodies on their sixteenth meeting (A/59/254) (to which was annexed the report of the third inter-committee meeting of the human rights treaty bodies), reviewed developments in the work of those bodies, including their cooperation with United Nations specialized agencies, funds and programmes, and with non-governmental organizations. It focused on the continuing efforts to improve the work of the treaty bodies and included recommendations for enhancing further cooperation among the committees through the streamlining of reporting and follow-up procedures. Both meetings had considered proposals on the form and content of an expanded core document to be used by all treaty bodies and the establishment of harmonized guidelines for the preparation of reports. The comments and suggestions that would later be formulated by the Committees would be incorporated into a new draft that the fourth inter-committee meeting would consider in 2005. The chairpersons had convened a one-day informal meeting with representatives of States, and had met with special rapporteurs and representatives, experts and chairpersons of working groups in the special procedures system, as well as with the members of the expanded Bureau of the Commission on Human Rights at its sixtieth session.

3. The report of the Secretary-General on the Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/59/310) indicated that 136 States were now parties to the Convention, and that a further five had ratified its Optional Protocol, which would enter into force following its ratification by 20 States. Liberia and the Syrian Arab Republic had become parties to the Convention since the submission of the report.

4. The annual report of the Committee Against Torture (A/59/44) contained reports on its two sessions, during which it had considered 14 reports of States parties and had taken decisions on 25 individual complaints.

5. The Secretary-General's report on the Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/59/306) included the results of the first election of the new Committee on Protection of the Rights of All Migrant Workers and Members of Their Families, and drew attention to the activities undertaken by the Office of the United Nations High Commissioner for Human Rights, other United Nations bodies and the Special Rapporteur on the human rights of migrants, to encourage States to ratify or accede to it. There were currently 27 States parties.

6. The report of the Committee on Protection of the Rights of All Migrant Workers and Their Families (A/59/48) provided information on the Committee's first session, during which provisional rules of procedure had been adopted and an informal meeting had been held with States parties. During an informal meeting held in October 2004, the Committee had agreed to provisional guidelines for States parties on the submission of initial reports. In 2005, it envisaged holding two one-week sessions rather than

one three-week session, subject to approval by the General Assembly.

7. The Secretary-General had informed delegations that the report on the United Nations Voluntary Fund for Victims of Torture would not be submitted until the sixtieth session of the General Assembly, because the meeting of the Board of Trustees of the Fund had been postponed. An evaluation of the work of the Fund was available on the web site of the Office of the United Nations High Commissioner for Human Rights.

8. The report of the Secretary-General on the Status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (A/59/309) included information on the financial status and activities of the Fund and contained the recommendations adopted by its Board of Trustees at its ninth session.

9. **Mr. Smith** (Australia), speaking as Chairperson of the Commission on Human Rights at its sixtieth session, explained that the Commission had evolved into the premier forum for the discussion of human rights questions. The sixtieth session had brought together some 5,000 representatives, and the States, intergovernmental organizations, non-governmental organizations, special mechanisms and national human rights institutions had organized over 600 side events. The Commission was continuing to shape the international human rights agenda and was contributing to the promotion and protection of human rights everywhere.

10. In 2002, the amount of time allotted to the Commission had been reduced, and since then it had been working to manage its calendar while still allowing time for debate on all agenda items. It had been able to do so in its most recent session without resorting to the clustering of items or to reducing the time allotted to speakers, because all delegations had exercised discipline and shown respect for the scheduled starting hour of meetings and the speaking time of participants. In addition, they had resorted less often to points of order and rights of reply. The Commission had also used an electronic voting system, which had proved to be more efficient and transparent.

11. Turning to the results of the session, he said that the Commission had adopted 88 resolutions, 25 decisions and 5 statements by Chairpersons, and had created 5 new country mandates (Belarus, Chad, Democratic People's Republic of Korea, Sudan and Uzbekistan). Thematic mandates had also been created, notably on terrorism and human rights, trafficking in persons, especially women and children, and impunity. An independent expert had been appointed to tease out the complex issues involved in the fight against terrorism. Particular attention should be given to the issue of trafficking in persons, which was a major source of concern for a number of countries. As for impunity, many experts believed that the matter must be addressed in order effectively to combat many violations of human rights and international humanitarian law.

12. The Commission on Human Rights supervised the work of the Subcommission on the Promotion and Protection of Human Rights, and had endorsed a number of its decisions, including decisions to establish a voluntary fund for minority-related activities and to commence several new studies. The Subcommission had seven special rapporteurs who, inter alia, examined the impact of corruption on the realization and enjoyment of all human rights; human rights and the human genome; and issues and methods to be considered in the universalization of international human rights instruments.

13. The Special Procedures mandate holders, the national human rights institutions and the non-governmental organizations, as well as several intersessional open-ended working groups had made a particular contribution to the success of the Commission's session. Those working groups had considered a draft declaration on the rights of indigenous peoples, a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, and draft instruments for the protection of all persons from forced disappearances, on the right to development, and on the effective implementation of the Durban Declaration and Programme of Action. The expanded Bureau of the Commission had had valuable exchanges with the Bureau of the Economic and Social Council, with the inter-committee meeting of the chairpersons of the human rights treaty bodies, and with non-governmental organizations.

14. Under the terms of a decision taken by the Commission on Human Rights and endorsed by the Economic and Social Council in 2000, the Special Procedures mandate holders could not hold more than one mandate at a time or remain in one for longer than six years. During the current year, he had had to appoint 17 special rapporteurs and independent

experts, and he had taken care to ensure not only a high level of competence and expertise, but also a fair geographical and gender distribution, in order to preserve the credibility of the system.

15. **Ms. Verrier-Frechette** (Canada), speaking also on behalf of Australia and New Zealand, emphasized the vital role played by the human rights treaty bodies in the promotion and protection of human rights at the national level, and welcomed the high priority given to them by the Office of the United Nations High Commissioner for Human Rights. That system should enable States effectively to fulfil all their human rights treaty obligations, including the preparation of reports to the treaty bodies and the implementation of their recommendations.

16. States and the treaty bodies and secretariats that served them should work together to improve the human rights protection system, encouraged by the support of the Secretary-General.

17. The inter-committee meeting was proving to be a valuable forum for bringing more coherence to the treaty body system, as demonstrated by the third meeting, in June 2004, during which it had explored the use of an expanded core document, targeted reports, harmonized reporting guidelines and considered the working methods of the committees and how best to engage national human rights institutions and non-governmental organizations in the treaty body system. The treaty bodies were already doing much to improve their working methods. It was imperative, in order to ensure the effectiveness and integrity of the human rights protection system, to consider reports in a timely way; committees which had a backlog of work were considering meeting simultaneously in chambers. Addressing the backlog and the increasing demand for technical assistance would have resource implications; existing resources should therefore be used more efficiently.

18. The committees were also entering into dialogue with non-reporting States, in order to encourage them to report, to provide assistance where it was needed, and to take measures vis-à-vis those which disregarded their obligations.

19. In their concluding observations, the committees should concentrate on concrete measures capable of being implemented. In addition, the technical and political support should focus on improving the human rights situation on the ground. The role of country rapporteurs within the committees was important for the preparation of focused concluding observations and effective follow-up.

20. The Office of the United Nations High Commissioner for Human Rights, which continued to play a critical role, had examined its own working methods and taken steps to increase consistency throughout the system. Along with the committees, it should contemplate taking further and smarter initiatives to increase efficiency. It had also formulated recommendations concerning the technical parameters for reports submitted to the treaty bodies, such as page limits, which could help to reduce the current backlog of reports.

21. States parties should do their utmost to meet their human rights obligations more effectively, in particular in the preparation of reports, and should make greater use of information technology so as to reduce the quantity of paper used and thus also the cost and volume of documentation.

22. The human rights reporting system was aimed ultimately at improving the human rights situation at the national level and thereby making a difference to the lives of ordinary people. It was about implementation, and States would be in a better position to meet their obligations and to monitor national human rights situations if they had easy access to an innovative system and could benefit from technical assistance.

23. **Ms. Hull** (United States of America) stated that the United States Government, convinced that democracies were more likely to respect human rights, both at home and abroad, and that they advanced freedom and dignity, and empowered individuals and societies to reach their potential, was firmly committed to protecting human rights and fostering democracy and the rule of law worldwide.

24. The United States therefore participated in the Community of Democracies, a forum of 100 democratic nations under the leadership of Poland, the Republic of Korea, and Chile, which contributed to democratization and supported nascent democracies such as Timor-Leste; it also helped the Third Committee, the Commission on Human Rights and other multilateral forums. On 21 September 2004, the President of the United States had proposed the establishment of a democracy fund within the United Nations that would help countries to lay the

foundations of democracy by instituting the rule of law and independent courts, a free press, political parties and trade unions. The United States hoped that the States members of the Community of Democracy would promote and fund that initiative.

25. Currently, the greatest threats to international peace and security were made by groups that justified their violence in religious terms. The United States firmly believed that freedom of religion, an inalienable right of all mankind — robustly affirmed in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights — respected the right of all and cultivated human dignity. Furthermore, nations that affirmed religious freedom rarely posed a security threat to their neighbours. Promoting religious liberty was therefore not only an international ideal; it was an objective of mutual interest to all freedom-loving States and peoples around the world.

26. **Ms. Gul-e-Farkanda** (Pakistan) said that the current geopolitical scenario was such that member States were under a greater obligation than ever to take measures to prevent the violation of human rights. Pakistan attached great importance to the promotion and protection of human rights in determining national policies for the establishment of responsible and accountable governance in that country, guided by the prophet Muhammad and by the Constitution, which conferred equal status and rights on all citizens. The mass human rights awareness and education project, launched in 1999, was evidence of the commitment of her Government to those principles. That project, which was unique in that it involved interaction between the Government and civil society, had four components: mass awareness through media; local training; curriculum development; and the establishment of the Human Rights Study Centre at Peshawar University.

27. Her Government was committed to promoting and protecting human rights and had focused on civil and political rights, with a view to creating a culture of respect for fundamental rights, and on the devolution of power, which should ensure the participation of all citizens in decision-making and the high representation of women in political decision-making. It was also devoting serious attention to ridding the society of extremism and lawlessness, and to reforming the system of madrasahs (Koranic schools), in particular by modernizing the curriculum. Moreover, civil society was playing an increasing role in the development process, and freedom of the press and media were recognized throughout the country.

28. Non-Muslims represented 3.72 per cent of the total population of the country and enjoyed the same protection, status and rights as other citizens. The Government had established the National Commission for Minorities, under the chairmanship of a federal minister, which represented all the country's minorities and had been given the task of studying all practices that discriminated against minorities, and recommending measures to ensure fuller participation by the minorities in all aspects of national life. The Government had also promulgated an ordinance to protect the property of minority communities — including places of worship, burial places, and educational, health and recreational centres — which stipulated that such property could not be bought, sold or transferred by anyone without specific permission from the Government. Referring to the legal provisions of the Pakistani Penal Code relating to religion, in particular the blasphemy laws, she said it was important to mention that, contrary to belief, those provisions did not apply exclusively to minorities, were in no way discriminatory, and did not victimize either an individual or a community. In any event, the Government was taking steps to prevent any misuse of those laws.

29. Although there were many reasons for the escalation in human rights violations (such as the slowing international economy and inadequate governance), armed conflicts and foreign occupations were the principal causes of that escalation. In that regard, she said that the effective implementation of the provisions of the Charter of the United Nations, United Nations resolutions, international human rights instruments, the Vienna Declaration and Programme of Action of the World Conference on Human Rights, and humanitarian law must continue to be the main focus of efforts by the international community in the area of human rights.

30. **Mr. Freitas de Camara** (Timor-Leste), after stressing the particular importance that his people and Government attached to activities aimed at ensuring the realization of fundamental human rights, said that Timor-Leste was a staunch defender of such rights, since it strongly believed that all individuals deserved

respect for their human dignity. With regard to treaty reporting and the initiatives to reform the current system, his delegation wished to emphasize the strategic importance of the international human rights treaties. Treaty reporting gave States parties a dynamic opportunity to clarify their obligations, assess progress made in the implementation of their human rights obligations and identify what should be done to make such implementation more effective. His delegation also endorsed resolution 2004/78, adopted unanimously by the Commission on Human Rights, in which States recognized the treaty bodies as the cornerstone of the human rights machinery.

31. Having ratified all seven core international human rights instruments, Timor-Leste had recently embarked on the process of preparing its first reports. As a newly independent nation, however, it was struggling to establish a functioning civil service and to develop human rights policies; and the numerous reports that were required for donors left few resources for the preparation of other reports. There was thus a risk that critical resources would be diverted from efforts to implement the very rights that the treaties and reporting mechanisms were designed to advance.

32. Referring to the efforts to reform the traditional reporting system, which had suffered from fragmentation, duplication and lack of continuity, he said that Timor-Leste had been among the first States to opt for a new pilot system, based on the guidelines drawn up by the chairpersons of the human rights treaty bodies, for the development of a common core document that would be accompanied by treaty-specific documents. It had thus commenced work on the collation of data for a common core document. Once that had been compiled, it would prepare the seven treaty-specific documents, which it hoped to complete by 2005 or early 2006. It would be happy to share its experiences in that regard. The Government recognized the value of the reporting process for the promotion of dialogue at both the national and international levels, and considered that the new approach would contribute to the enhancement of that dialogue. In that context, he urged the Secretariat, the treaty bodies and Member States to continue their efforts to reform every aspect of the reporting system.

33. Timor-Leste supported the emphasis placed by the Secretary-General, in his note (A/59/254, para. 23), on the complementarity and the important links between the work of the treaty bodies and other United Nations entities. It had therefore worked conscientiously with a range of United Nations entities and other bodies, including the United Nations Development Programme, the United Nations Mission of Support in East Timor, the United Nations Development Fund for Women (UNIFEM), the United Nations Population Fund, the United Nations Children's Fund (UNICEF) and the Office of the High Commissioner for Human Rights, which had provided technical and financial support in the preliminary phase of work to develop the country's reports.

34. **Mr. de Klerk** (Netherlands), speaking on behalf of the European Union, the candidate countries Bulgaria and Romania, the stabilization and association process countries and potential candidates Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia, and Iceland, said, after reading out a list of some of the human rights defenders killed since the previous session of the Third Committee, that the European Union was deeply concerned about the situation of human rights defenders in all countries where they were under severe pressure.

35. Human rights defenders needed protection, yet they continued to suffer from intimidation, harassment and violations of their mental or physical integrity or even of their right to life. Many were arrested or held in detention for their professional activities. In her report, the Special Representative of the Secretary-General on human rights defenders (A/59/401), pointed out that human rights defenders were particularly vulnerable at times when they were conducting investigations or after publicizing reports, petitions or open letters, or during the periods before and after elections. The European Union urged the international community to be particularly attentive at such moments of vulnerability and called on all States to do their utmost to protect human rights defenders and ensure a safe working environment.

36. Human rights defenders needed support. Far from posing a threat, they were in fact the conscience of States. Such support could also be enhanced by human rights defenders themselves: when running a human rights organization, they could, for example, increase their legitimacy and credibility by being fully transparent in conducting their activities and by enlarging their constituencies. The rise of terrorism and the increase in counter-terrorism measures had had a negative impact on the situation of human rights defenders and there were many cases in which national

security and counter-terrorism legislation were misused to target them. The European Union called on all States to respect human rights and fundamental freedoms, the rule of law and humanitarian law when combating terrorism.

37. In fulfilment of the obligations undertaken by the countries of the European Union in the framework of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly in 1998 (resolution 53/144), the Council of the European Union had, on 15 June 2004, adopted guidelines on human rights defenders, which provided practical suggestions for enhancing European Union action to promote the right to defend human rights. The guidelines also provided for action by the European Union to support human rights defenders at risk and suggested practical ways of assisting them. An NGO forum on the implementation of the guidelines was to be held in December 2004, one of the aims being to produce a handbook for the use of European Union missions on the promotion and protection of the work of human rights defenders.

38. The European Union believed that human rights defenders deserved to be defended themselves. It therefore pledged that all its member States would honour their commitments under the Declaration adopted in resolution 53/144; States could not protect and promote human rights without the critical voice of human rights defenders. The defence of human rights defenders was thus part and parcel of the obligation of States to protect and promote human rights.

39. **Mr. Arziev** (Uzbekistan) said that, since independence, the Parliament of Uzbekistan had ratified more than 60 international human rights instruments and Uzbekistan regularly submitted the reports required under the various instruments. It was fully committed to continuing its efforts on political and democratic reform and further developing human rights institutions. Such efforts would, however, have to go hand in hand with the liberalization of the legislative, executive and judicial systems. In that context, the Government had taken decisive steps to amend the rules on the punishments that could be imposed by the courts. General amnesties enabled thousands of citizens to resume their normal lives every year, with the result that the prison population has been halved since 2000. Thirty-five articles of the Criminal Code that, in 1991, had provided for the death penalty could no longer be applied except in the case of terrorism or premeditated murder with aggravating circumstances, and even then not in the case of women, people under 18 or men over 60. Uzbekistan was reforming the penitentiary system as well as the judicial system. It had therefore given the international community free access to the country's penitentiary establishments, which received regular visits from members of the diplomatic corps, international governmental and non-governmental organizations, including the International Committee of the Red Cross (ICRC) and the Organization for Security and Cooperation in Europe (OSCE), and the media. Still further improvements should be made to the training of middle- and lower-ranking law-enforcement officers, who must be taught respect for fundamental human rights. Those who had mistreated prisoners had been jailed, the aim being to eliminate impunity altogether. Uzbekistan required increased assistance from international donors in order to continue to improve the situation in that regard.

40. In the firm belief that dialogue between State structures and NGOs contributed to higher standards in the protection of human rights and individual freedoms, Uzbekistan encouraged the activities of NGOs, the number of which had risen by almost 70 per cent over the past four years. It was pleased to note that such international NGOs as Freedom House and Human Rights Watch were active in the country. He noted that any dialogue on human rights involving all interested parties should be open and would be productive only if based on a cooperative approach.

41. Uzbekistan was the only one of the member countries of the Commonwealth of Independent States to have invited the Special Rapporteur of the Commission on Human Rights on the question of torture to visit the country and it had undertaken to work towards the implementation of his recommendations. On 9 March 2004, the Government had adopted the Action Plan on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which had been prepared in cooperation with UNDP, OSCE, representatives of the diplomatic corps and international NGOs. An interdepartmental working group to monitor progress in the implementation of the plan met regularly, under the chairmanship of the Minister of Justice. Once the process of assembling the

information on what had been done so far to implement the recommendations had been completed, his delegation intended to submit a report to the Office of the United Nations High Commissioner for Human Rights.

42. **Mr. Schurti** (Liechtenstein) said that, despite the measures taken by Member States and United Nations bodies to improve and revitalize the system, the reform initiated by the Secretary-General was far from being completed.

43. Recognizing that human rights were one of the cornerstones of the United Nations, his Government had made the promotion and protection of human rights and the rule of law a priority, for it was convinced that full enjoyment of human rights was the foundation for sustainable development, conflict prevention, peace and stability.

44. The proper functioning of the human rights machinery, particularly the treaty bodies, was crucial. The brainstorming meeting on reform of the human rights treaty bodies, which had been organized jointly by his Government and the Office of the United Nations High Commissioner for Human Rights in Malbun, Liechtenstein, in 2003, and had brought together members of the treaty bodies, representatives of Governments and non-governmental organizations and experts in that area, had provided an opportunity to discuss the reform proposals set out by the Secretary-General in his agenda for further change. The outcome of the meeting (A/58/123) had also fuelled the discussion at the inter-committee meeting of human rights treaty bodies and the meeting of chairpersons of human rights treaty bodies held in 2003 and 2004.

45. The participants in the inter-committee meeting had, inter alia, supported the recommendations concerning the elaboration of guidelines on an expanded core document that would complement targeted periodic reports and the harmonization of reporting guidelines, without diluting the specificity of the individual treaties. Practical measures had been adopted to streamline reporting requirements and harmonize the working methods of the committees.

46. His Government welcomed the agreement among the treaty bodies to improve coordination of their work with a view to preventing duplication and ensuring that each treaty body focused on its own mandate. While it was convinced that the reporting process should continue to be based on dialogue, it favoured the creation of task forces and the designation of country rapporteurs, as the Committee on Human Rights had done, over the establishment of different parallel chambers. The term "chamber" was unfortunate since it evoked a tribunal rather than the dialogue that should follow the submission and consideration of reports. Such dialogue should continue in both the short and long term, in other words, not only at the time when States parties' reports were discussed, but also during the period between the submission of reports, where appropriate, involving technical assistance provided by the Office of the High Commissioner.

47. **Mr. Shin** Kak-soo (Republic of Korea), referring to the note by the Secretary-General on the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (A/59/254), said that the discussions within the human rights treaty bodies and the dialogue between those bodies and State parties had been fruitful.

48. The achievements of the sixteenth meeting of chairpersons of human rights treaty bodies and the third inter-committee meeting of human rights treaty bodies were to be commended. He trusted that that dialogue would lead to greater harmonization of the work of the different bodies, while preserving the specificity of each instrument, and to the simplification of reporting obligations, without undermining the integrity of the process.

49. With regard to the harmonization of work, his delegation wished to encourage the treaty bodies to use standardized terminology and to make more effective use of the limited time for dialogue with States parties by following a list of issues prepared in advance.

50. His delegation believed that the structure of reports proposed by the Office of the High Commissioner (HRI/MC/2004/3), consisting of a common core document and a treaty-specific document, would avoid duplication, streamline the drafting process and solve the problems of delays in the consideration of reports and non-reporting. That proposal should be studied further in consultation with the treaty bodies.

51. His delegation viewed non-reporting and delays in the consideration of reports as serious problems that undermined the credibility of the treaty body system and frustrated those constituencies that closely followed the reporting process. Periodic reporting

should make it possible to track the follow-up to the observations made by treaty bodies, which was essential for the effective functioning of the system. The efforts of the treaty bodies to solve the aforementioned problems were to be commended. In particular, his delegation welcomed the decision of the Committee on the Rights of the Child to meet in two parallel chambers. Other treaty bodies should be encouraged to consider that possibility.

52. His delegation valued the participation of non-governmental organizations in the work of the treaty bodies and would welcome the development of clear modalities for such participation.

53. **Mr. La** Yifan (China) said that China was a party to 21 international human rights instruments and was seriously considering ratifying the International Covenant on Civil and Political Rights, as well as the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. China had scrupulously fulfilled its obligations under the treaties to which it was a party. It had submitted its first report on the implementation of the International Covenant on Economic, Social and Cultural Rights, nine reports under the International Convention on the Elimination of All Forms of Racial Discrimination, six reports under the Convention on the Elimination of All Forms of Discrimination against Women, three reports under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and two reports under the Convention on the Rights of the Child. His Government was currently preparing its first report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as its combined third and fourth report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

54. China maintained a dialogue and communication with the human rights treaty bodies, and had on several occasions invited experts and members of the relevant committees to visit China. His Government had also assisted the Hong Kong and Macao Special Administrative Regions to fulfil their treaty obligations.

55. Even though international human rights instruments had undoubtedly played a positive role in the protection and promotion of human rights, it must be acknowledged that the current reporting system was too complex and imposed an excessive burden on countries, especially developing countries. In his report on the strengthening of the United Nations (A/57/387), the Secretary-General had put forward a number of ideas to address the situation. The human rights treaty bodies had also made certain observations and recommendations to the same effect. China believed that any system reform should avoid imposing more onerous demands on States parties but should instead try to streamline the system for the submission of reports and increase its efficiency.

56. **Ms. Abeysekera** (Sri Lanka) said that, as a democracy, her country placed a high premium on the promotion and protection of human rights. Sri Lanka was a party to 17 international human rights instruments, including the seven major treaties and conventions. In interpreting domestic legislation, Sri Lanka's judges had taken into account the provisions of the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was an indication that the country was ready to fulfil its obligations under those two instruments. In accordance with its obligations under the conventions and protocols on human rights to which it was a party, Sri Lanka also reported to the treaty bodies on a regular basis.

57. Because article 11 of the Sri Lankan Constitution recognized the fundamental right of citizens to protection from torture and other cruel, inhuman or degrading punishment or treatment, the Supreme Court had jurisdiction over related violations. Moreover, following enactment of the 1994 Convention Against Torture Act, the Extradition Law had been amended to provide the obligation to "extradite or prosecute" in cases of torture. The inter-ministerial working group on human rights with respect to torture assigned investigations to the police special investigations unit, in respect of torture allegations made by the Special Rapporteurs. The investigations were overseen by the Office of the Attorney-General's unit for the prosecution of torturers.

58. During the year 2000, two members of the Committee against Torture had visited Sri Lanka and concluded that, although a disturbing number of incidents of torture and ill-treatment (as defined by article 16 of the Convention against Torture) were occurring within the context of the country's internal

armed conflict, those incidents could not be defined as "systematic torture and ill-treatment", and that most of the victims had been roughly treated, rather than tortured. The Committee had also noted that the Government was employing various preventive measures against torture and ill-treatment, in accordance with the recommendations of its two-member delegation. The Government had also taken administrative measures, imposing greater responsibility on police and judges for the promotion and protection of human rights and the prevention of torture, and reviewing and redesigning the training syllabus for the police and security forces in order to place greater emphasis on efforts to change behaviours and attitudes. Additional detention facilities had been opened by the terrorism investigation unit in order to ease overcrowding, and certain legal methods of criminal investigation had been selected and formulated with a view to eliciting self-incriminatory material from suspects.

59. Since the 2002 ceasefire agreement, there had been a dramatic decline in the number of reported cases of torture. Moreover, search operations and arrests under the Prevention of Terrorism Act had been suspended, and arrests were being conducted under due process of law, in accordance with the Code of Criminal Procedure.

60. With respect to migrant workers and their family members, Sri Lanka had been among the first States to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Formal pre-departure training and orientation programmes were offered to Sri Lankan workers, and training centres were being established with the assistance of host countries. The children of migrant workers benefited from social welfare measures, including scholarships, and social-protection measures were being implemented with the participation of the United Nations Children's Fund (UNICEF).

61. Returning migrant workers were given access to employment and housing loans at concessionary rates, and a number of subsidized housing projects had been launched on their behalf. An overseas worker welfare fund had been set up for the repatriation of workers stranded abroad owing to ill-health or ill-treatment. The links between the Consular Section of the Ministry of Foreign Affairs, Sri Lanka's diplomatic missions in the host countries, and the foreign employment bureau had been strengthened. Legal action was taken against fraudulent employment agencies.

62. Recalling that cooperation between countries was essential to the protection of the rights of migrant workers, Sri Lanka strongly urged all countries that received migrant workers to become parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

63. **Ms. Kafanabo** (United Republic of Tanzania) said that her country, which was already a party to the two international human rights Covenants, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child, planned to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the year 2005, and to incorporate the provisions of the Convention into its domestic legislation.

64. In order to promote and protect human rights, it was not enough simply to ratify international conventions and incorporate their provisions into domestic legislation. Parties to such conventions must take further positive steps to establish the institutional framework for the implementation of the standards of the conventions. That was why her country had set up an independent Commission on Human Rights and Good Governance, based on the Paris Principles relating to the status and functioning of national institutions for the protection and promotion of human rights. The Commission was empowered to consider and investigate communications relating to human rights violations received from individuals or groups of individuals. It could institute proceedings, promote ratification of human rights instruments, harmonize national legislation with those instruments, and monitor compliance by the Government with the human rights standards they contained. She noted with satisfaction that the domestic institutional legal framework for the promotion and protection of human rights was independent and effective.

65. Her country, which was firmly committed to the standards set out in the Charter of the United Nations and the African Charter on Human and Peoples' Rights, was aware that the submission of periodic reports was vital to the process of monitoring their

implementation. Even though it had not always submitted its reports on time, it should not be concluded that it had wavered in its commitment to adhere to those instruments. The newly created Commission on Human Rights and Good Governance, the Directorate for Human Rights in the Ministry of Justice and Constitutional Affairs, and the Ministry of Community Development, Gender and Children would give new impetus to that process. Her country was determined to strengthen its national capacity in human rights reporting by providing appropriate training, and it would require assistance in that regard. It commended the Centre for Human Rights and the United Nations Development Programme (UNDP) for their valuable technical and financial support in that area, and would continue to request technical services, particularly with regard to special procedures, to strengthen the capacities of State agents and non-governmental stakeholders. It was on that basis that it supported the recommendations of the third inter-committee meeting, which had been approved by the sixteenth meeting of chairpersons of the human rights treaty bodies, and recommended that more resources should be allocated to help developing countries to strengthen their human rights reporting capacity.

The meeting rose at 12.10 p.m.